
BOARD OF TRUSTEES OF THE INDIANA PUBLIC RETIREMENT SYSTEM

Resolution No. 2021-09-10

Adopting rules related to the administration of the Fund as described herein.

WHEREAS, the Indiana Public Retirement System exists to provide retirement benefits to its members, their survivors, and beneficiaries;

WHEREAS, the Board of Trustees of the Indiana Public Retirement System, by statute, administers the Fund;

WHEREAS, the Board of Trustees, pursuant to [IC 5-10.5-4-2](#), may establish and amend rules and regulations for the administration of the Fund without adopting a rule under [IC 4-22-2](#);

WHEREAS, the Board of Trustees of the Indiana Public Retirement System wishes to adopt, amend, and/or repeal certain rules contained or to be contained in the Indiana Administrative Code related to the administration of the Fund as described herein; and

WHEREAS, the following adoptions and amendments are effective immediately, unless otherwise stated or covered by law;

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Indiana Public Retirement System that:

SECTION 1. [35 IAC 1.2-1-7](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.2-1-7](#) Overpayments and underpayments to employer, PERF ASA, and contribution accounts administered by the Indiana public retirement system

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.5-5](#); [IC 5-10.2](#); [IC 5-10.3](#); [IC 33-38](#); [IC 33-39](#); [IC 36-8](#)

Sec. 7. (a) This rule applies to all INPRS funds that have contribution accounts.

(b) When there has been an overpayment of picked up member contributions or after-tax member contributions **by an employer**, the principal amount of the overpayment will be credited to the employer to the extent funds are in the account. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(c) When there has been an underpayment of picked up member contributions or after-tax member contributions **by an employer**, the principal amount of the underpayment will be billed to the employer. The principal amount of the underpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e) to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.

(d) When there has been an overpayment of employer contributions, the principal amount of the overpayment will be credited to the employer. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(e) When there has been an underpayment of the employer contribution, the principal amount of the underpayment will be billed to the employer. The principal amount may be adjusted for earnings/interest at the interest rate defined in subsection (f) to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.

(f) For purposes of this section, the interest rate shall be determined by the executive director and shall not exceed the assumed rate of return set by the board. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-1-7](#); adopted Mar 6, 2015: [20150318-IR-035150060ONA](#); adopted Feb 22, 2019: [20190227-IR-035190137ONA](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#)*)

SECTION 2. [35 IAC 1.2-3-19](#) IS ADDED TO READ AS FOLLOWS:

35 IAC 1.2-3-19 Judges' retirement fund reemployment after withdrawal of contributions

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 33-38-8](#)

Sec. 19. (a) A participant of the judges' retirement fund who withdraws from the fund and becomes a participant again at a later date is entitled to service credit for years of service before the withdrawal if the participant pays into the fund the full amount received by the participant when the participant withdrew from the fund, plus interest. The interest is at a rate determined by the board and is calculated from the date of the withdrawal.

(b) The cost to purchase such service is determined at the time the participant makes the contributions for such service. The fund shall provide the eligible fund participant with information with respect to the cost of such service.

(c) The eligible participant may purchase such service subject to the following:

- (1) Service may be purchased in one (1) month increments. The minimum service purchase is one (1) year for a participant who elects to purchase service through installment payments.
- (2) Payments are subject to the terms and conditions of a finance agreement.
- (3) Any such purchase may be made via a direct cash payment, a direct rollover as allowed by statute, or a combination of both.
- (4) Any direct rollover may not exceed the actual cost of such service as established by the fund.
- (5) Payment may be made in a lump sum or in annual installments for a period not to exceed five (5) years. Any installment may bear interest at the actuarial assumed interest rate effective on the date of the first installment.
- (6) Any payments are subject to applicable Internal Revenue Service limits, and INPRS may deny an application or may limit any payments if the purchase would exceed those limitations.
- (7) In the event of a payment default under the terms of the finance agreement or the purchase is not completed, a partial service credit amount will be determined by INPRS. The partial service credit amount will be based on the payments made as of the date of payment default and the cost of the service. Partial service will be credited in monthly increments. The minimum amount of partial service credit will be one (1) month. The fund participant is not eligible to make service purchase payments after the date of the payment default or the date of separation of employment.
- (8) In the event any annual payment is not timely made, allowing for a thirty (30) day grace period, the payment will be deemed in default under the terms of the finance agreement. The fund participant is not eligible to make service purchase payments after the date of the payment default.
- (9) If the participant does not choose periodic payments, a lump sum payment must be received within ninety (90) days of the participant receiving the cost letter. In the event the lump sum payment is not timely made, allowing for a thirty (30) day grace period, the payment will be deemed in default under the terms of the finance agreement. The fund participant is not eligible to make service purchase payments after the date of the payment default.
- (10) If a lump sum payment is chosen, full payment must be received within ninety (90) days of the participant receiving the cost letter or the purchase defaults and no further payments may be made.

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-3-19](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

SECTION 3. [35 IAC 1.2-6-10](#) IS AMENDED TO READ AS FOLLOWS:

35 IAC 1.2-6-10 Withholding of payments

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 4-21.5](#); [IC 5-10.2](#); [IC 5-10.3](#)

Sec. 10. (a) **This rule applies to all trust funds administered by INPRS. Monthly benefit payments to a member, survivor, and beneficiary** may be withheld under any of the following circumstances:

- (1) To offset the overpayment of benefits to a member, **survivor**, or beneficiary until the overpayment is repaid to the fund **consistent with subsection (c)**.
- (2) Pending investigation after **any of the following occur**:
 - (A) Three (3) consecutive monthly benefit checks have **not** been returned by the United States Postal Service as undeliverable **cashed**.
 - (B) Three (3) consecutive monthly benefit payments have been deposited on a stored value card that has not been activated.
 - (C) One (1) direct deposit monthly benefit payment has been rejected by the member's, survivor's,

or beneficiary's financial institution.

(3) After receiving notification of the death of a member, survivor, or beneficiary.

(b) If INPRS determines that an overpayment of a member's, survivor's, or beneficiary's benefit is to be collected from ongoing monthly benefit payments:

(1) INPRS shall provide not less than sixty (60) days' notice of the existence of an overpayment and INPRS' intent to collect said overpayment from the member, survivor, or beneficiary;

(2) INPRS shall not require an amount greater than:

(A) twenty-five percent (25%) of the total monthly benefit to be withheld; or

(B) ten percent (10%) of the total monthly benefit to be withheld, if the overpayment began prior to July 1, 2015, and the overpayment occurred through no fault of the member, survivor, or beneficiary;

(3) if no agreement on the amount to be withheld can be reached, or sixty (60) days has passed from the issuance of the notice of overpayment, pursuant to the process described in subdivision (1), INPRS shall withhold the amount described in subdivision (2); and

(4) a member, survivor, or beneficiary may request INPRS reduce the amount being withheld from an ongoing monthly benefit due to a financial hardship on a form approved by INPRS. If INPRS determines a hardship exists, INPRS shall grant such requests.

(c) If a member, survivor, or beneficiary receives an overpayment of benefits, the member, survivor, and beneficiary have an obligation to repay the erroneous payments to the fund. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-10; adopted Nov 19, 2010: [20101208-IR-035100722ONA](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#)*)

SECTION 4. [35 IAC 1.3-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 1.3-3-1](#) Years of participation

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-3-1](#); [IC 5-10.3-7-1](#); [IC 5-10.3-7-4](#); [IC 5-10.3-12-25](#)

Sec. 1. (a) All years of participation for purposes of determining vesting under the plan are determined by [IC 5-10.3-12](#) and this article.

(b) A member's years of participation shall be credited in yearly increments, and shall not be prorated for partial years of participation credit.

(c) If a plan participant:

(1) is employed in two (2) different plan-covered positions at the same time; and

(2) then terminates employment from either one (1) of those positions;

the participant forfeits only those contributions, as described in [IC 5-10.3-12-25\(e\)](#), from the participating entity from which he or she the participant terminates. The participant does not forfeit any member contributions.

(d) Participants who separate employment from one (1) participating entity in the plan retain their accumulated years of participation if the participant is hired by another participating entity.

(e) A participant's years of participation in the plan may only be used towards calculating the participant's vesting percentage in the plan. Years of participation in the plan may not be treated as creditable service in the fund.

(f) If a participant is employed in one (1) fund-covered position and at the same time is employed in a separate plan-covered position, the member is entitled to both creditable service in the fund and years of participation in the plan. If a plan participant is employed in two (2) plan-covered positions, the member may earn years of participation from only one (1) position at a time.

(g) For purposes of forfeiture under [IC 5-10.3-12-25\(e\)](#), "state employee" has the meaning set forth in [IC 5-10.3-7-1](#).

(h) Members who separate from state employment forfeit any employer contributions, unless they return to state employment within thirty (30) days.

(i) Members who separate from employment with a participating political subdivision forfeit any employer

contributions, unless they return to employment with the same political subdivision within thirty (30) days.

(j) A participant in the plan does not earn years of participation for the individual's service with a volunteer fire department. *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-3-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#); adopted Sep 11, 2015: [20150923-IR-035150302ONA](#); adopted Jun 23, 2017: [20170705-IR-035170307ONA](#); errata filed Jan 16, 2018, 3:12 p.m.: [20180124-IR-035180061ACA](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))*

SECTION 5. [35 IAC 2-5-8](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 2-5-8](#) Withholding of payments

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 4-21.5](#); [IC 36-8-8-12.5](#); [IC 36-8-8-13.5](#)

Sec. 8. Benefit payments may be withheld under any of the following circumstances:

(1) To offset the overpayment of benefits to a member or beneficiary until the overpayment is repaid to the fund.

(2) Pending investigation after three (3) consecutive monthly benefit checks have been returned by the United States Postal Service as undeliverable. **The provisions of [35 IAC 1.2-6-10](#) apply to the fund.**

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-5-8](#); adopted Nov 19, 2010: [20101208-IR-035100722ONA](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

SECTION 6. [35 IAC 2-6-1](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 2-6-1](#) Payment of employer contributions

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-8-4](#); [IC 36-8-8-6](#)

Sec. 1. (a) The Indiana public retirement system board of trustees herein sets the due date for contributions as seven (7) days after a covered employer's payroll unless otherwise approved by the board.

(b) Any employer who fails to make such payments by the due date may be assessed a penalty. The board may fine the employer or department one hundred dollars (\$100) for each additional day that the payments are late. The penalty will be determined by the board of trustees.

(c) For purposes of ~~[IC 36-8-8-6](#)~~ **[IC 36-8-8-6\(e\)](#)**, the system board will request that the amount payable be withheld by the auditor of state from money payable to the employer and transferred to the fund if the employer fails to submit required contributions, records, or reports for over sixty (60) days after the due date. The system board may also recover in the circuit or superior court of the county in which the employer is located, in an action by the state on the relation of the system board, prosecuted by the attorney general, if the employer fails to submit required contributions, records, or reports for over sixty (60) days after the due date. *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-6-1](#); filed Aug 6, 1980, 9:20 a.m.: 3 IR 1473; readopted filed Oct 31, 2001, 2:21 p.m.: 25 IR 898; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Dec 13, 2013: [20131225-IR-035130565ONA](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))*

SECTION 7. [35 IAC 2-7-1](#) IS AMENDED TO READ AS FOLLOWS:

Rule 7. Employer Reporting and Salary

[35 IAC 2-7-1](#) Report of salary levels

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-1-11](#); [IC 36-8-8-6.5](#); [IC 36-8-8-11](#)

Sec. 1. Annually, on or before January first each year, the Clerk-Treasurer or City Controller shall certify to the 1977 Fund within the limits of [IC 36-8-1-11](#) what constitutes the salary of a first class patrolman or firefighter for that employer for that calendar year **on a form approved by INPRS**. *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-7-1](#); filed Aug 6, 1980, 9:20 a.m.: 3 IR 1473; filed Sep 8, 1982, 2:05 p.m.: 5 IR 2110; readopted filed Oct 31, 2001, 2:21 p.m.: 25 IR 898; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))*

SECTION 8. [35 IAC 2-7-2](#) IS ADDED TO READ AS FOLLOWS:

35 IAC 2-7-2 Employer reporting

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-8-6](#); [IC 36-8-8-6.5](#)

Sec. 2. (a) INPRS may request reports and records from employers participating in the 1977 fund.

(b) Pursuant to [IC 36-8-8-6](#), said reports or records are due to the system board not more than thirty (30) days after the end of the calendar quarter when such records or reports were requested.

(c) INPRS may make an expedited request for reports and records to be submitted not earlier than thirty (30) days from the date requested, provided INPRS has a reasonable need for such expedited request unless the employer has just cause for the delay. Just cause for purposes of this subsection is determined solely by INPRS.

(d) Any employer who fails to provide the requested report or records by the due date may be assessed a penalty. The board may fine the employer or department one hundred dollars (\$100) for each additional day that the reports and records are late. The penalty will be determined by the board.

(e) The provisions of [35 IAC 2-6-1\(c\)](#) apply to this section. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-7-2](#); adopted Sep 10, 2021: [20210915-IR-0352104200NA](#))

SECTION 9. [35 IAC 14-2-1](#) IS AMENDED TO READ AS FOLLOWS:

35 IAC 14-2-1 Withholding of benefit payment

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4](#)

Sec. 1. Benefit payments may be withheld under any of the following circumstances:

(1) Order of the board.

(2) To offset the overpayment of benefits to a member or beneficiary until the overpayment is repaid to the fund.

(3) Pending investigation after three (3) consecutive monthly benefit checks have been returned by the United States Postal Service as undeliverable.

(4) After notification of a member's death.

(5) Pursuant to court order. The provisions of [35 IC 1.2-6-10](#) [sic, [35 IAC 1.2-6-10](#)] apply to the fund.

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-2-1](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 704; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007:

[20070404-IR-5500702000NA](#); adopted Sep 10, 2021: [20210915-IR-0352104200NA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-2-1](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-2-1](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 10. [35 IAC 14-2-13](#) IS AMENDED TO READ AS FOLLOWS:

35 IAC 14-2-13 Overpayment of benefits

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.4](#)

Sec. 13. If a member, survivor, or beneficiary receives an overpayment of retirement benefits due to an administrative error, failure to inform the fund of reemployment, or any other reason, the member, survivor, or beneficiary has have an obligation to repay the erroneous payments to the fund. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-2-13](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 706; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-5500702000NA](#); adopted Sep 10, 2021: [20210915-IR-0352104200NA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-2-10](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-2-13](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 11. [35 IAC 14-3-8](#) IS AMENDED TO READ AS FOLLOWS:

35 IAC 14-3-8 De minimis overpayments

Authority: [IC 5-10.2-2-1](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-3-6](#); [IC 5-10.4-4](#)

Sec. 8. If an active, inactive, retired, retired for disability, suspended, or deceased member's ASA account is below the de minimis amount as determined within [550 IAC 2-1-2-7](#) TRF [35 IAC 14-1-6](#), INPRS may elect to not collect the overpayment from the member. (*Board of Trustees of the Indiana Public Retirement System*; [35 IAC 14-3-8](#); adopted Dec 17, 2010: [20101229-IR-550100778ONA](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-3-7](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-3-8](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 12. [35 IAC 14-7-11](#) IS AMENDED TO READ AS FOLLOWS:

[35 IAC 14-7-11](#) Overpayments and underpayments

Authority: [IC 5-10.2-2-1](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-2-11](#); [IC 5-10.2-3-2](#); [IC 6-8.1-10-1](#)

Sec. 11. (a) When there has been an overpayment of picked up member contributions or after-tax member contributions **by an employer**, the principal amount of the overpayment will be credited to the employer. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(b) When there has been an underpayment of picked up member contributions or after-tax member contributions **by an employer**, the principal amount of the underpayment will be billed to the employer to the extent funds are in the account. The principal amount of the underpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e) to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.

(c) When there has been an overpayment of employer contributions, the principal amount of the overpayment will be credited to the employer. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(d) When there has been an underpayment of the employer contribution, the principal amount of the underpayment will be billed to the employer. The principal amount may be adjusted for earnings/interest at the interest rate defined in subsection (e) to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.

(e) For purposes of this section, the interest rate shall be determined by the executive director and shall not exceed the assumed rate of return set by the board. (*Board of Trustees of the Indiana Public Retirement System*; [35 IAC 14-7-11](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#); errata filed Jan 19, 2010, 12:48 p.m.: [20100203-IR-550100043ACA](#); adopted Sep 16, 2010: [20100929-IR-550100612ONA](#); adopted Mar 6, 2015: [20150318-IR-035150060ONA](#); adopted May 3, 2019: [20190515-IR-035190262ONA](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-7-9](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-7-11](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 13. [35 IAC 23](#) IS ADDED TO READ AS FOLLOWS:

ARTICLE 23. RETIREE MEDICAL BENEFITS ACCOUNT PLAN

Rule 1. Plan Rules

[35 IAC 23-1-1](#) Purpose and administration

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#)

Sec. 1. (a) The plan is established as a health reimbursement arrangement for the purpose of funding, on a pre-tax basis, benefits for sickness, accident, hospitalization, and medical expenses for certain retired employees of employers. The purpose of the plan is to reimburse eligible retired employees of employers for certain qualifying medical expenses that the retired employees, their spouses, and their dependent children incur in accordance with [IC 5-10-8.5](#) and this rule.

(b) The plan shall be administered by the board of trustees of the Indiana public retirement system (hereinafter referred to as the INPRS board).

(c) All assets shall be held in trust for the exclusive benefit of participants of the plan and their beneficiaries and shall only be distributed according to [IC 5-10-8.5](#) and this rule.

(d) The plan shall comply with the requirements of Section 105 of the Internal Revenue Code. *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-1](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))*

[35 IAC 23-1-2](#) Definitions

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#); [IC 5-10.3-2](#); [IC 5-10.3-12-14](#)

Sec. 2. The following definitions apply throughout this article, unless the context otherwise clearly requires:

(1) "Claims administrator" means the third party administrator appointed by INPRS to handle the administration of the plan.

(2) "Covered dependent" means:

(A) a surviving spouse legally married to the retired participant on the date of the retired participant's death; or

(B) an unmarried person who is a dependent child of the retired participant as defined under the state's health plans.

(3) "Employer" means:

(A) for an elected officer, appointed officer, or employee of the executive branch of state government who is in a position covered by the plan as described in section 3 of this rule, the state, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the state, having a payroll in relation to persons it immediately employs;

(B) for a member of the Indiana general assembly or an employee of the legislative branch of state government:

(i) the president pro tempore of the senate, for a member or an employee of the senate;

(ii) the speaker of the house of representatives, for a member or an employee of the house of representatives; or

(iii) the personnel subcommittee of the legislative council, for an employee of the legislative services agency.

(C) the Indiana supreme court, for a member or employee of the judicial branch of state government, including:

(i) a justice;

(ii) a judge;

(iii) a prosecuting attorney;

(iv) an officer described in section 3(b)(6) of this rule; and

(v) an employee of the judicial branch of state government, including an employee of any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the judicial branch, having a payroll in relation to persons it immediately employs.

(4) "Plan" means the retirement medical benefits account plan established under [IC 5-10-8.5](#).

(5) "Plan year" means the twelve (12) month period commencing each July 1 and ending the following June 30.

(6) "Qualifying expenses" means:

(A) premiums paid under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged;

(B) contributions under a fully-insured policy or self-funded plan or program providing group or individual coverage to the retired participant or covered dependents covering medical care as defined in section 213(d)(1)(A) and (B) of the Social Security Act for medical, dental, and vision benefits; and

(C) premiums paid for tax-qualified long-term care insurance subject to limitations in section 213(d)(10) of the Internal Revenue Code;

(D) the following amounts that are excluded from qualifying benefits:

(i) expenses paid, reimbursed, or reimbursable by any insurance, accident, health, or workers'

compensation plan;

(ii) expenses paid, reimbursed, or reimbursable under an Internal Revenue Code Section 125 plan;

(iii) expenses incurred while the individual was neither a retired participant nor a covered dependent; and

(iv) expenses the individual is not legally obligated to pay; and

(E) expenses for the purchase of a policy, plan, or program providing coverage for expenses in addition to medical care, as defined by section 213(d) of the Internal Revenue Code are qualifying expense only to the extent that such expenses are directly related to the cost of the medical care component. The cost for the medical care component must be reasonable for the type and amount of coverage purchased as determined by the claims administrator and must be separately stated in the insurance contract, billing statement, or other documentation accepted by the claims administrator.

(7) "Retired participant" means:

(A) a participant who is eligible for a normal, an unreduced, or a disability benefit of the public employees' retirement fund established under [IC 5-10.3-2](#) on the participant's last day of service;

(B) a participant who has completed at least ten (10) years of service as an elected or appointed officer on the participant's last day as an elected or appointed officer. For purposes of calculating whether a participant has sufficient years of service under this clause:

(i) if a participant has years of service with more than one (1) employer in a position covered by the plan, the years of service are the sum of all the participant's years of service in a position covered by the plan with all employers; and

(ii) effective July 1, 2013, a partial year of service completed by the participant shall be considered to be one (1) complete year of service; or

(C) a participant who is a member of the public employees' defined contribution plan established under [IC 5-10.3-12](#) who is of normal retirement age as defined by [IC 5-10.3-12-14](#) on their last day of service, and whose last day of service is after June 30, 2021. Years of service that are purchased by or on behalf of a participant in order for the participant to be eligible for a benefit will not be included in determining the participant's eligibility for benefits or amount of benefits under this plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-2](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

[35 IAC 23-1-3](#) Participation in the plan

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8-6](#); [IC 5-10-8.5](#); [IC 10-12-1-3](#); [IC 33-23-5-10](#); [IC 33-38-5-7](#); [IC 33-39-6-2](#)

Sec. 3. (a) Employees eligible to participate in the plan is governed by [IC 5-10-8.5-1](#) and this section.

(b) An employee is eligible to participate in the plan if the employee is classified as a full-time employee by their employer and falls under one (1) of the following categories:

(1) Employees of the executive, legislative, or judicial branch of state government except as provided in subsection (c).

(2) State-elected officers.

(3) Officers appointed to fill state-elected office vacancies.

(4) Members of the general assembly.

(5) Elected officers paid by the state.

(6) Officers paid by the state under [IC 33-23-5-10](#), [IC 33-38-5-7](#), or [IC 33-39-6-2](#).

(7) Employees of the state police department who waived coverage under a common and unified plan of self-insurance provided under [IC 5-10-8-6](#) prior to July 1, 2011.

(8) Employees of the state police department who make a timely election to participate under subsection (d) as provided under [IC 5-10-8.5-9.5](#) or [IC 5-10-8.5-9.6](#).

(c) The following individuals are not eligible to participate in the plan:

(1) Conservation officers of the department of natural resources.

(2) Employees of the state excise police.

(3) Employees of the state police department other than those described in subsection (b)(7) and (b)(8).

(d) State police employees must:

(1) provide INPRS satisfactory evidence of the waiver under (b)(7) [subsection (b)(7)];

(2) have made a one (1) time irrevocable election to participate in the plan between July 1, 2011, and

August 31, 2011, if the employee:

- (A) is a former employee of the executive, legislative, or judicial branch of state government (other than an employee described in subsection (c));
- (B) left employment described in subdivision (d)(2)(A) [clause (A)] after June 30, 2007, and before July 1, 2011, and was subsequently employed by the state police department in a job classification which precludes eligibility for benefits as defined in [IC 10-12-1-3](#) (related to participation in the state police pension and benefit programs); and
- (C) remains employed by the state police department on July 1, 2011, in a job classification which precludes the employee's eligibility for benefits as defined in [IC 10-12-1-3](#), and such individual will be an eligible employee as defined in subsection (b)(8).

If such individual eligible to make the election under this subsection does not make such election in the time prescribed, such individual will not be a participant in the plan with respect to service as an employee of the state police department. Any service with the state police department after June 30, 2011, will not be included for any purpose under this plan. An individual electing to participate in the plan under this subsection cannot also be a participant in any retiree medical benefit plan or program maintained by or under the auspices of the state police department.

(3) make an election to participate in the plan not later than sixty (60) days after the individual becomes an employee of the state police department in a job classification which precludes eligibility for benefits as defined in [IC 10-12-1-3](#) if the person:

- (A) is a former employee of the executive, legislative, or judicial branch of state government (other than an employee described in subsection (c));
- (B) left employment described in clause (A) after June 30, 2011; and
- (C) subsequently becomes employed by the state police department in a job classification which precludes eligibility for benefits as defined in [IC 10-12-1-3](#) (related to participation in the state police pension and benefit programs).

If such election is not made for an individual under this subsection, the right to make the election under subsection (b)(8) shall be forfeited. An individual electing to participate in the plan under this subsection cannot also be a participant in any retiree medical benefit plan or program maintained by or under the auspices of the state police department. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-3](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

[35 IAC 23-1-4](#) Entitlement to receive benefits

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#)

Sec. 4. Only a retired participant and the retired participant's covered dependents are entitled to receive benefits from the plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-4](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

[35 IAC 23-1-5](#) Participant accounts; employer contributions

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5-15](#)

Sec. 5. (a) A reimbursement account shall be established for each participant.

(b) On or before June 30 of each year, a participant's employer shall allocate contributions to participant accounts as provided in [IC 5-10-8.5-15](#).

(c) Effective as of June 30 of each year, participant accounts shall be credited or debited with each account's share of earnings or losses on the investments or deposits of all reimbursement accounts after reduction for the administrative cost of the plan.

(d) Maintenance of reimbursement accounts is solely for accounting purposes. Assets are not required to be segregated to any reimbursement account. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-5](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

[35 IAC 23-1-6](#) Qualifying expenses

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5-18](#)

Sec. 6. Only qualifying expenses are reimbursable from a retired participant's reimbursement account

as determined under [IC 5-10-8.5-18](#) and this section. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-6](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

[35 IAC 23-1-7](#) Payment procedures

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#)

Sec. 7. (a) In order to be reimbursed for a qualifying expense, a retired participant or covered dependent must file a written claim on a form approved by INPRS with the claims administrator not later than ninety (90) days after the end of the plan year in which the expense was incurred and paid. Claims shall include appropriate supporting documentation as determined by the INPRS claims administrator.

(b) The INPRS claims administrator shall determine whether and the amount of any qualifying expense according to the terms of [IC 5-10-8.5](#) and this rule. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-7](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

[35 IAC 23-1-8](#) Administrative review

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#)

Sec. 8. The provisions of [35 IAC 1.2-7](#) apply to the plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-8](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

[35 IAC 23-1-9](#) Death of eligible employee

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#); [IC 5-10.2](#); [IC 5-10.3-12-14](#)

Sec. 9. A participant who dies while in the employ of an employer after the date on which the participant became eligible for a normal, unreduced retirement benefit under [IC 5-10.2](#), [IC 5-10.3](#), and [35 IAC 1.2](#) or was of normal retirement age as defined in [IC 5-10.3-12-14](#) and who had not yet terminated employment, will be treated as a retired participant as of the participant's date of death. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-9](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

[35 IAC 23-1-10](#) Reemployed participants

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#)

Sec. 10. (a) A former participant who terminated eligible employment before becoming a retired participant and is reemployed by any state employer shall be treated as a new employee upon such employment. The balance of such employee's reimbursement account shall be zero dollars (\$0) upon reemployment.

(b) A retired participant who is reemployed by any state employer shall not be eligible to receive benefits from the plan during the participant's period of reemployment. Such participant's account shall not be set to zero dollars (\$0) upon reemployment. No additional contributions to the retired participants account shall be made during the period of reemployment. When the retired participant terminates state employment, the retired participant will resume access to the participant's plan account.

(c) INPRS has sole discretion in determining whether the individual is a reemployed participant for purposes of subsections (a) and (b). (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-10](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

[35 IAC 23-1-11](#) Nonalienation of benefits

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#); [IC 5-10-8.5](#)

Sec. 11. All benefits and amounts in the plan are exempt from levy, sale, garnishment, attachment, or other legal process. Any attempt to sell, transfer, assign, pledge, encumber, or otherwise dispose of any right to benefits payable is void. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-11](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

35 IAC 23-1-12 Cessation of participation; forfeiture

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#)

Sec. 12. (a) A retired participant's participation will cease when:

- (1) the retired participant's reimbursement account is depleted;
- (2) there have been no reimbursements made from the retired participant's reimbursement account for at least six (6) months and the balance in the reimbursement account is less than five dollars (\$5); or
- (3) the retired participant has died and any and all covered dependents have died or are no longer classified as covered dependents (whichever occurs first).

At such time, the retired participant's reimbursement account will be forfeited.

(b) A participant who is not a retired participant ceases participation when the participant:

- (1) separates from service in a position covered by the plan as described in [35 IAC 21-1-3](#) [sic, [35 IAC 23-1-3](#)] and [IC 5-10-8.5](#); and
- (2) does not become reemployed in a position covered by the plan as described in [35 IAC 21-1-3](#) [sic, [35 IAC 23-1-3](#)] and [IC 5-10-8.5](#) within thirty (30) days with an employer.

In such case, the amounts credited to the participant's reimbursement account shall be forfeited as of the date of the participant's termination. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-12](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

35 IAC 23-1-13 Subrogation

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#)

Sec. 13. If qualifying expenses are paid under this plan and the retired participant or covered dependent has or asserts a lawful claim against other parties, including, but not limited to, insurance companies and carriers, this plan shall be subrogated to all claims and rights of recovery of the retired participant or covered dependent. The plan shall be entitled to be reimbursed from any judgment, settlement, or payment resulting from the individual's claim or right. The plan shall be reimbursed in full for any qualified expenses paid by the plan before any amounts, including, but not limited to, legal fees incurred by the retired participant or covered dependent, are deducted from the judgment, settlement, or payment and paid to any other person. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-13](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

35 IAC 23-1-14 Reimbursement

Authority: [IC 5-10.5-4-2](#); [IC 5-10-8.5-11](#)

Affected: [IC 5-10-8.5](#)

Sec. 14. Benefits payable to a retired participant or covered dependent may be withheld to offset an overpayment of benefits made by the plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 23-1-14](#); adopted Sep 10, 2021: [20210915-IR-035210420ONA](#))

SECTION 14. [35 IAC 1.2-5-25](#) IS REPEALED.

DATED: September 10, 2021

Bret Swanson, Chairman
INPRS Board of Trustees
Indiana Public Retirement System

Resolution adopted by 9 affirmative, 0 negative votes.

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